

TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING
Council Chambers

APPROVED
October 25, 2012

Meeting called to order at 6:05 p.m.

Board Members Present: Deborah Driscoll, Ann Grinnell, Tom Emerson, David Kelly, Susan Tuveson, Bob Melanson

Members absent: Rich Balano

Staff: Gerry Mylroie, Town Planner

Pledge to the Flag

Minutes: October 11, 2012

Mr. Kelly moved to accept the minutes of October 11, 2012 as amended

Ms. Grinnell seconded

Motion carried unanimously by all members present

Public Comment:

Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

There was no public comment.

PUBLIC HEARING:

ITEM 1 – Proposed roof-top deck for Higgins Residence, Shoreland Development Review.

James Higgins, owner and applicant, requests approval for a new deck at their property located at 2 Bridgeview Terrace, Tax Map 2, Lot 42D Residential – Suburban Zone and Shoreland Overlay Zone.

Rui Monteiro-Claro, representing James Higgins, reviewed and summarized the application before the Board.

The public hearing opened and closed at 6:15 p.m. as there was no public comment. Mr. Monteiro-Claro noted a neighbor has reviewed the application and has no objections to the project.

There was no board discussion.

Mr. Kelly read the Findings of Fact:

Owner and Applicant, James D. Higgins, proposes to construct a new roof top deck at an existing three-dwelling apartment, located at 2 Bridgeview Terrace in the Residential Suburban and Shoreland Overlay Zones, Tax Map 2, Lot 42D.

Hereinafter the “Development”.

Now therefore, based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings:

I. Standards in the Shoreland Overlay Zone

16.3.2.17. D Shoreland Overlay Zone – Standards are met

Vote: 6 in favor 0 against 0 abstaining

Chapter 16.7 General Development Requirements are met

Vote: 6 in favor 0 against 0 abstaining

II. Procedures for Administering Permits For Shoreland Development Review

16.10.10.2 D. An Application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated that the proposed use will:

1. *maintain safe and healthful conditions;*

Vote: 6 in favor 0 against 0 abstaining

2. *not result in water pollution, erosion or sedimentation to surface waters;*

Not applicable.

3. *adequately provide for the disposal of all wastewater;*

Not applicable.

4. *not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;*

Not applicable.

5. *conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;*

Vote: 6 in favor 0 against 0 abstaining

6. *protect archaeological and historic resources;*

Not applicable.

7. *not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;*

Not applicable.

8. *avoid problems associated with floodplain development and use*

Vote: 6 in favor 0 against 0 abstaining

9. *is in conformance with the provisions of this Code; and*

Vote: 6 in favor 0 against 0 abstaining

10. *Recorded with the York County Registry of Deeds.*

Vote: 6 in favor 0 against 0 abstaining

NOW THEREFORE the Kittery Town Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed development will have no significant detrimental impact, contingent upon the following condition(s):

Application Waivers: 16.10.5.2.B.1 (plan size); 16.10.5.2.B.1 (Boundary Survey); 16.10.5.2.B.10. a thru o; 16.10.5.2.C.2. a thru c; and 16.10.5.2.C.3 thru 12.

Conditions of Approval:

1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
2. Incorporate architectural and site information on a plan suitable for recording that includes the calculations for the existing and proposed volume, floor area and impervious area for the property. Provide said plan to Town Planner for review prior to recording at the York County Registry of Deeds.
3. Prior to issuance of a building permit and any earth moving or soil disturbance, one (1) mylar copy and two (2) paper copies of the recorded Plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department.

Therefore, move to accept the above *Findings of Fact* as read, *Application Waivers* and *Conditions of Approval* and approve the proposed *Development* in the Shoreland Overlay Zone on the property located at 2 Bridgeview Terrace, Tax Map 2, Lot 42D and authorize the Planning Board Chairman to sign the Final Plan and Findings of Fact.

Vote: 6 in favor 0 against 0 abstaining

Approved by the Kittery Planning Board on the 25th day of October, 2012.

Per Town Code Section 16.6.2 Appeal of Planning Board, Board of Appeals, or Port Authority Decision.

A. An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

NEW BUSINESS:

ITEM 2– 20 Bayview Lane Renovations, Shoreland Development Review.

Action: Accept or deny preliminary plan application and schedule a public hearing. Robert and Rosa Marsilia, applicant, requests approval for repairs and additions at the property located at 20 Bayview Terrace, Tax Map 2, Lot 80 Residential – Suburban Zone and Shoreland Overlay Zone.

Robert Marsilia, applicant, summarized the application before the Board. Mr. Marsilia noted the project will retain the foundation and walls, not a tear down, and garage will be on same footprint. The expansion is within the 30% volume increase allowance.

Mr. Kelly noted his appreciated for the completeness of the calculations on the plan.

Earldean Wells, Conservation Commission, requested that notes on the plan indicate what parts of the existing house/garage will be torn down and rebuilt.

Mr. Emerson stated the garage extends over the foundation, so the replacement will be on the same footprint, not foundation.

Mr. Kelly moved to find plan substantially complete, accept for preliminary plan review, and schedule a public hearing.

Ms. Tuveson seconded

Motion carries unanimously by all members present

A Public Hearing for this item was scheduled for November 8, 2012. In lieu of a site walk, the Board requested the Planner, Mr. Mylroie, confirm existing site conditions on behalf of the Planning Board.

PUBLIC INFORMATIONAL PRESENTATION:

ITEM 3 – Kittery Center / Memorial Circle and Related Improvement Plan.

The Maine Department of Transportation (MDOT) Locally Administered Project consultants will discuss the planning process for the re-design of Memorial Circle and related improvements including pedestrian access along State Route 236 (Rogers Road) from Frisbee Commons to Adams Drive and U.S. Route One. Representatives from Wright Pierce Engineers, and Gorrill-Palmer traffic engineers, will present progress to date, obtain feedback and answer questions.

John Edgerton, Wright-Pierce, introduced Jennifer Claster and Tom Gorrill. He then presented a description via Power Point (attached), outlining proposed sidewalk connections between the existing sidewalk on Route 236 near Frisbee Commons and the existing sidewalk at the outlets on Route 1 north near its intersection with Adams Drive, and re-design of the Memorial Circle area.

Jennifer Claster, Wright-Pierce, presented a map illustrating areas where sidewalks would be constructed along Rogers Road and Route 1, noting ROW and pedestrian safety concerns, existing utilities, and a small cemetery. However, which side of Rogers Road to place sidewalks has not been determined.

Tom Gorrill, Gorrill Palmer, summarized the findings regarding collisions and congestion at Memorial Circle. He explained the difference between a roundabout and a rotary, noting it was determined a rotary is still the best

method to handle traffic in this the area. The problem is the approaches to the Circle, but by utilizing some roundabout design on these approaches, the cost to improve the area would be reduced while improving safety. Possible combining of the off-ramp with Old Post Road was considered, and this could be incorporated in the future.

Mr. Emerson asked that the public hearing consist of two parts, sidewalks and then Memorial Circle.

Sidewalks

Bill St. Laurent, Rogers Road, believes a north side sidewalk would be difficult with the location of people's homes, utilities and the cemetery. A south side sidewalk could be done very nicely, and allow room for bicycles. The north side could be improved even if no sidewalk installed.

William McDonough, 132 Rogers Road, stated a water line was just completed on the north side and the cemetery needs to be considered.

Larry Estes, Brave Boat Harbor Road, noted the addition of sidewalks will impede the ability for autos to pull aside for emergency vehicles.

Susan Emery asked that scenic resources and character be preserved, and that a sidewalk on the south side appears more feasible.

Bob Collins, 17 Adams Drive, noted sidewalks should be on the north side of Adams Drive, otherwise they will be too close to existing homes, taking away front lawns. Further, who will shovel and maintain those sidewalks? Very few people use this road now, except for summer employees of the Outlets.

Donald Gray, 19 Adams Drive, stated there should be no sidewalk on either side of Adams Drive as they would disturb existing drainage, remove front property or existing trees. Adams Drive is hardly used. He referred to Adams Drive as a country road and sidewalks are not needed

Bill McCarthy, 27 Adams Drive, concurred that there should be no sidewalk on either side of Adams Drive. However, consideration could be given to a sidewalk and bike land on the guardrail side of Rt. 1.

Bruce Lakin, 5 Ox Point Drive, stated there is no need for sidewalks, and they will reduce property values.

Bob Young, Kittery Historical and Naval Society, noted the Rogers Road extension and proposed sidewalks may involve taking the Museum's front yard, impacting existing veteran displays. He noted the Museum has submitted other proposals to the Department of Public Works, Council and Planning Board and hopes they will be included during further discussions and planning.

Norm Leon, Haley Road, noted his concern of the Rogers Road extension in front of the Museum. There is no need for a sidewalk in front of the Museum, impacting the monument flag and memorial for Vietnam and Korean veterans.

Dave Durling, 29 Adams Drive, agrees there are few users for a proposed sidewalk on Adams Drive. There are only six families along Adams Drive and everyone appears comfortable walking along the roadway.

Gay Lakin, 5 Ox Point Drive, concurs with others who believe new sidewalks are not necessary on Adams Drive. She said Mr. Mylroie told her a new traffic light would direct traffic one-way down Adams Road, to Kittery Estates, thus preventing those on Adams drive from driving north, and stated this is a terrible idea. All this talk of connecting the Memorial Bridge to the Foreside with sidewalks doesn't make sense as people want to build a multi-million dollar parking garage in the Foreside so they won't have to walk.

Nancy Roy, 2 Ox Point Drive, noted there are so few numbers of people who walk along Adams Drive that sidewalks should not be built. The expense to build sidewalks should be used elsewhere. Outlet employees use Adams Drive through the summer, but are then gone. A sidewalk would impact the natural drainage area to Spruce Creek. Adams Drive is a quiet residential area, a country lane, with little traffic and no need for sidewalks and the expense of installation. She asked who would maintain sidewalks in front of people's homes, where porches and front steps would be lost. The proposed street light idea to re-route traffic down Adams Road is a bad idea. She asked who initiated this sidewalk idea, as she and the residents are opposed to it.

Mr. Emerson stated this is a MDOT project. **Ms. Roy** asked if it 'we have to have it'. This is a waste of funds where there are other more important priorities.

Tracy Durgin, 130 Rogers Road, noted the trees lining Rogers Road may be old, but they should be considered before removal. He supports sidewalks, but believes the impact on utilities and traffic patterns need to be considered as well.

Norm Leon, stated that, no matter who suggested these sidewalks, they don't want them and they don't want to pay for them.

Gay Lakin stated a sidewalk to nowhere invites walkers from the outlet area that don't belong in the residential neighborhood.

Tom Emerson, Planning Board Chairman, Ox Point Drive, noted his concern regarding people backing out from the Museum parking onto the Rogers Road extension. If sidewalks are located on the south side of Rogers Road, pedestrians must cross the street a couple of times to reach the Community Center, and stop signs for crossing

John Edgerton, Wright-Pierce, clarified that traffic signals previously referred to are not part of this proposal.

Deborah Driscoll, if no sidewalk, would there be opposition to opening up the guardrail area for pedestrians and bicyclists to use Adams Drive, with striping along Adams Drive for such?

John Edgerton, if using federal funds, their standards must be met. However, this does not preclude the Town from doing something less costly and less invasive with their own funds.

Dave Durling noted there is a paved section at the end of Adams Drive that could be included.

Bill McCarthy stated he believed it would be a hazard to open up the area behind the guardrail where bikes could access Adams Drive, but rather install sidewalks and bike lanes along Route 1.

Ann Grinnell asked who the Town's decision making and review authority. There is no Council member or DPW representative present at this hearing. She also noted her concern about crossing Rogers Road from Town Hall to Frisbee Commons if there is a sidewalk on south side. Additionally, the Museum wants to participate in the discussions regarding impact on their site.

John Edgerton stated review by the Board is part of the process, but the Council would have final approval authority to expend funds. This public input is exactly what they need to proceed with further discussions with DPW. Nothing specific has been proposed in the Museum area, and their concerns need to be incorporated into future plans.

Ann Grinnell summarized that Adams Drive residents seem to not want sidewalks in their neighborhood that would invite shoppers from the outlets. She also noted that discussions regarding a parking garage located at the water district would not be used because people would not walk from there to the Foreside.

Memorial Circle

Larry Estes, Brave Boat Harbor Road, asked what are the planned changes to the circle.

Tom Gorrill explained there are no planned changes to the traffic circle. The proposed changes will be to the approaches to the traffic circle.

Norm Leon stated the Blue Star monument to World War 2 veterans is at the circle so there should be no changes to the circle. If there are any improvements, it should be to the sightline from Rt. 1 by-pass and the Route 236 overpass, which should help reduce accidents.

Susan Emery said she has heard the circle will be 'denuded' and is pleased to hear there are no proposed changes to the circle.

Oscar Boyth, 179-181 State Road, the "Dog House", noted he has never seen accidents at the traffic circle in 8 ½ years and there does not appear to be heavy congestion accessing or using the traffic circle. This appears to be a solution in search of a problem, and asked why money is being spent on an unnecessary project. Some of the proposed changes, including granite curbs and trees, will negatively impact business around the circle and he is opposed to these changes.

George Riley asked if the changes would impact the Central Fire Station's access to the circle if the ramp and/or Old Post Road access is eliminated.

John Edgerton stated there has been consideration of combining the ramp and Old Post access into one access, rather than retaining the existing two accesses to the circle.

Bob Collins suggested the only part of the traffic circle with a stop sign has resulted in all the traffic accidents.

Mr. Emerson closed the public portion of this hearing.

Susan Tuveson appreciates the idea of altering the circle approaches and incorporating pedestrian use in an effort to achieve traffic calming. She also noted any changes to the interior of the circle will honor all veterans.

Tom Gorrill concurred, that the proposals are for primarily for safety not volume.

Ann Grinnell asked about sidewalks around the circle.

John Edgerton responded this has not been determined. Is there is a need to link and provide connectivity with sidewalks and bike lanes feeding to or from the circle or from one side to another? It appears there may be more need for connectivity from the north/south. There is a cost/benefit consideration, but if it cannot be justified, and is rejected by the community, money will go elsewhere. He noted the Town is contributing 10% to the total costs for these improvements.

Deborah Driscoll is the Route 236 overpass part of this project, and how this will impact the changes currently under consideration?

John Edgerton stated the Route 1 north ramp will be addressed and be considered in the overpass project.

Susan Tuveson commented the interchange to return from the outlet area is a nightmare.

Tom Emerson commented the number of signs need to be reduced as they are confusing to the average driver/visitor. The yellow bollards at the State Road access needs to be cleaned up as well.

Gerry Mylroie explained the DPW Director had a conflict and could not attend. Though the speed limit on Rogers Road is 25 mph, he suggested by narrowing Rogers Road to include sidewalks and separations will reduce the speed of motorists. The center line could be moved depending upon which side of the road sidewalks would be installed. The land use zone along Adams Drive is zoned Commercial. Do the residents wish to consider a zone change from Commercial to Residential in the Adams Drive area? The Rt. 236 bridge project will be brought before the Board.

Dave Durling stated he would be in favor of a zone change to residential.

Donald Gray stated he is against changing the zoning, and to bring this up at this time is inappropriate as it causes confusion. He also asked that notice be sent three weeks in advance of a meeting.

Bill McCarthy concurred with Mr. Gray.

There was no further discussion.

End of Item 3

NEW BUSINESS:

ITEM 4 – Kittery Center/ Municipal Center / Circle of Honor – Site Plan Minor Amendment –

Action: Review and Comment. The Town of Kittery in conjunction with the Thresher Memorial Project Group proposes to create a Circle of Honor memorial area on the eastside of Town Hall. The purpose is to enable the recognition of all men and women from Kittery that have given their lives in service to the Nation. The area is located at 200 Rogers Road in the Business Local (B-L) Zone and identified as Map 22 Lot 20A and 20. Town representative is Gerald Mylroie, AICP, Town Planner.

Mr. Mylroie presented the proposed plan for the Circle of Honor (Attachment 2).

Mr. Melanson moved to review this item as a major amendment to an approved site plan

Ms. Grinnell seconded

Ms. Tuveson stated she agrees, noting it appears that the Department of Public Works needs oversight

Motion carries unanimously by all members present

It was agreed a public hearing will need to be scheduled, but Mr. Emerson noted no site plan was included in the application, and wetland mapping is needed given the recent issues, so it can be addressed and taken 'off the table'. Parking is also an issue that needs to be addressed, and this amendment needs to be seen in its totality.

No further action was taken on this item

ITEM 5– Town Planner Items:

A. Selected Commercial Recreation definition.
Deferred

B. Lewis Farms II Subdivision final plan submittal extension

Jeff Clifford, Altus Engineering, presented the request for extension, explaining the developer had submitted a LOMR (map revision) to FEMA and the final approval is expected November 23, 2012. The ordinance allows for Board review deferral while awaiting decisions from other review authorities.

Ms. Tuveson moved to approve the Lewis Farm II subdivision final plan submittal extension for 6 months, from November 23, 2012 to May 23, 2013

Mr. Melanson seconded

Motion carries unanimously by all members present

C. Debrief: October 20, 2012 Planning Board Workshop
This will be discussed at the next meeting.

D. Upcoming Town Council Workshops

i. Monday, October 29, 2012 –6pm - Sidewalks

ii. Wednesday, November 14, 2012 – 6pm – Memorial Circle and Kittery Foreside/Kittery Crossing Projects

E. Sustain Southern Maine (Partnering to strengthen our economy, environment and community) – Centers of Opportunity Project in Kittery

This will be discussed at a future meeting.

F. Other updates

Mr. Emerson noted 50 State Road will be returning to the Planning Board for a change in the approved site plan, as what was built. He asked the Board combine the public hearing requirement and review at the same time due to tenant needs.

DPW Project Schedule – A schedule has been shared with the Board, and the review process for DPW projects needs to be discussed.

Ms. Tuveson moved to adjourn

Mr. Melanson seconded

Motion carries unanimously by all members present.

The Kittery Planning Board meeting of October 25, 2012 adjourned at 9:00 p.m.

Submitted by Jan Fisk, Recorder – October 30, 2012

ATTACHMENT 1

(please click on this page to open up the entire document for review)

ATTACHMENT 2